

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT

CAUSE NO. 49D04-0610-PL-040789

STATE OF INDIANA,)
)
 Plaintiff,)
)
 v.)
)
PATRICK GOWAN,)
individually and doing business as,)
ABSOLUTE CONSTRUCTION CORP.,)
)
 Defendant.)

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FILED

MAY 24 2007

Charlotte J. White
CLERK OF THE MARION CIRCUIT COURT

CONSENT JUDGMENT

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Defendant, Patrick Gowan, individually and doing business as Absolute Construction Corp., hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as abandonment by the Attorney General of his position the Defendant violated Indiana's Deceptive Consumer Sales Act and the Home Improvement Contract Act. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

JURISDICTION, SCOPE OF JUDGMENT, AND ACKNOWLEDGMENTS

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.

2. The State of Indiana's Complaint for Injunction, Restitution, Costs, and Civil Penalties, states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, and the Indiana Home Improvement Contracts Act, Indiana Code § 24-5-11-1, *et seq.*

3. The Defendant, Patrick Gowan, is an individual engaged in the home improvement business with principal places of businesses in Hendricks County at 10213 Blue Sky Drive, Avon, Indiana, 46123, and Marion County at 8216 Wood Hollow Lane, Indianapolis, Indiana, 46239.

4. The Defendant acknowledges he has been advised the Attorney General's role in this matter is to serve as counsel for the State of Indiana and the Office of the Attorney General has not given the Defendant any legal advice regarding this matter. The Defendant expressly acknowledges the Office of the Attorney General has previously advised the Defendant to secure legal counsel prior to entering into this Consent Judgment for any legal advice the Defendant requires.

RELIEF ORDERED

5. The Defendant is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. in the course of entering into home improvement transactions, failing to provide to the consumer a written, completed home improvement contract, which includes at a minimum the following:
 - i. The name of the consumer and the address of the residential property that is the subject of the home improvement;
 - ii. The name and address of the Defendant and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
 - iii. The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
 - iv. A reasonably detailed description of the proposed home improvements;
 - v. If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;

- vi. The approximate starting and completion date of the home improvements;
 - vii. A statement of any contingencies that would materially change the approximate completion date;
 - viii. The home improvement contract price; and
 - ix. Signature lines for the Defendant or the Defendant's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;
- b. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;
 - c. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;
 - d. representing, expressly or by implication, the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or reasonably should have known it does not have;

- e. representing, expressly or by implication, the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know he cannot; and
- f. soliciting or engaging in a home improvement transaction without a license or permit required by law.

6. The Defendant's contract with Consumer H. Lee Dyer is hereby cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

7. Pursuant to Ind. Code § 24-5-0.5-4(c)(2), the Defendant shall pay consumer restitution in the amount of Five Thousand Dollars (\$5,000.00) to the Office of the Attorney General, on behalf of H. Lee Dyer of Indianapolis, Indiana.

8. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code § 24-5-0.5-4(c)(3), the amount of One Thousand Dollars (\$1,000.00), representing the Plaintiff's costs of investigating and prosecuting this action.

9. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code § 24-5-0.5-4(g) and Ind. Code § 24-5-0.5-8, the amount of Ten Thousand Dollars (\$10,000.00), representing civil penalties for the Defendant's knowing and intentional violations of the Deceptive Consumer Sales Act.

A total monetary judgment in the amount of Sixteen Thousand Dollars (\$16,000.00) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendant, Patrick Gowan, individually and doing business as, Absolute Construction Corp.

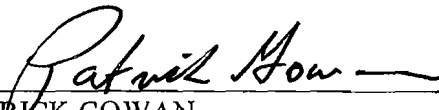
CONTINUING JURISDICTION

10. For the purpose of enforcing the provisions of this Consent Judgment, any subsequent Court obtaining jurisdiction over the Defendant based upon a complaint alleging a violation of any law that is the subject of this Consent Judgment may take judicial notice of this Judgment and is deemed to be a proper venue for interpretation and enforcement of this agreement. The Defendant waives any objection regarding a Court's jurisdiction to punish for contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment this

21st day of May, 2007

STEVE CARTER
Indiana Attorney General
Attorney no. 4150-64


PATRICK GOWAN
individually and doing business as
ABSOLUTE CONSTRUCTION CORP.

By: Terry Tolliver
Terry Tolliver
Deputy Attorney General
Attorney No. 22556-49

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED

this _____ day of _____ MAY 24 2007, 2007


Judge, Marion Superior Court

Distribution:

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